Comparison of the SECURE 2.0 Act of 2022 and Present Law[1]

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On December 22, 2023, the Senate passed the Consolidated Appropriations Act of 2023 (the "CAA") to fund the government through September 30, 2023. Division T of the legislation is the *SECURE 2.0 Act of 2022* ("SECURE 2.0"), which builds upon 2019's *Setting Every Community Up for Retirement Enhancement Act* (the "SECURE Act," **H.R. 1994**, **Groom summary**). The House is expected to the pass the CAA shortly.

SECURE 2.0 contains 90 provisions aimed at modernizing the retirement system, encouraging additional retirement savings, and easing administrative requirements. The changes will have at least some impact on most plans, so plan sponsors and service providers may need to take proactive steps in the near future. Fortunately, few of SECURE 2.0's provisions take effect before 2024.

The below chart summarizes all of SECURE 2.0's provisions along with their effective dates. Please visit Groom's **SECURE Act Resource Hub** for additional resources.

TITLE I—EXPANDING COVERAGE AND INCREASING RETIREMENT SAVINGS			
Bill Section	**Current Law**	**New Law**	**Effective Date**
Sec. 101. Expanding automatic enrollment in retirement plans	Automatic enrollment and automatic escalation may be used by 401(k) and 403(b) plans, but are not currently required.	New 401(k) and 403(b) plans must meet the requirements for an eligible automatic contribution arrangement (EACA), including automatic enrollment with a default rate of between 3% and 10% with a 90-day unwind feature, as well as automatic escalation of 1% per year up to a maximum of at least 10%, but no more than 15%.	Effective for plan years beginning after December 31, 2024.

[1] As released on December 20, 2022. Two bill sections are omitted from this summary because we do not believe them to be relevant to our clients. They are Sec. 122 "Assist states in locating owners of applicable savings bonds" and Sec. 605 "Charitable conservation easements." Title VII "Tax Court Retirement Provisions" is likewise omitted.

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Bill Section	**Current Law**	**New Law**	**Effective Date**
		Raises cap on permissible automatic escalation for safe harbor plans to 15%; cap for non-safe harbor plans raised to 10% in any year ending before 2025. Exemptions: governmental plans, church plans, small employers with 10 or fewer employees, SIMPLE plans, new employers that have been in existence for less than three years. Existing plans established before the date of enactment are exempt, except grandfathering does not apply to employers adopting an existing multiple employer plan ("MEP") after the date of enactment.	
Sec. 102. Modification of credit for small employer pension plan start-up costs	Small employers with fewer than 100 employees may be eligible for a three-year start-up credit that is up to 50% of administrative costs, up to a maximum yearly cap of $5,000.	Increases credit to 100% of qualified start-up costs for employers with up to 50 employees. Provides for an additional credit for 5 years of up to $1,000 per employee equal to the applicable percentage of eligible employer contributions to an eligible employer plan (not including a defined benefit plan). This credit applies to employers with up to 50 employees and is phased out for employers with between 51 and 100 employees. Notably, there is an exception for employees with wages in excess of $100,000 (indexed).	Effective for tax years beginning after December 31, 2022.
Sec. 103. Saver's Match	The existing Saver's Credit employs a tiered percentage system ranging from 10-50% based on Adjusted Gross Income ("AGI") to determine the amount of the credit.	Modifies the existing Saver's Credit to make it refundable and turns it into a direct government matching contribution to the taxpayer's IRA or eligible retirement plan.	Effective for tax years beginning after December 31, 2026.

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Bill Section	**Current Law**	**New Law**	**Effective Date**
		Enhances and simplifies the Saver's Credit by creating one credit percentage (with no tiers) of 50% for all savers below the AGI threshold ($41,000 for joint filers), at which point the credit phases out. The credit is treated as a pre-tax contribution to the recipient's plan or IRA, meaning it will be taxable when distributed.	
Sec. 104. Promotion of Saver's Match	Eligible taxpayers receive a nonrefundable income tax credit for contributions up to $2,000 with respect to a percentage of their qualified retirement savings contributions.	Requires Treasury to take steps to increase public awareness of the new Saver's Match and report to Congress no later than July 1, 2026.	Effective upon enactment.
Sec. 105. Pooled employer plans modification	The Secure Act amended ERISA and the Code to create "pooled employer plans" ("PEPs") that allow unrelated employers to participate. To qualify as a PEP, the plan must designate a trustee to be responsible for collecting contributions and having certain contribution related policies and procedures.	Amends the rules to allow the plan to designate any named fiduciary (other than a participating employer) as the entity responsible for contribution collections.	Effective for plan years beginning after December 31, 2022.
Sec. 106. Multiple employer 403(b) plans	The SECURE Act provided for the creation of PEPs, which allowed unrelated employers to join the same plan while still being considered one plan for purposes ERISA. PEPs are not subject to the same Department of Labor ("DOL") commonality requirements as closed MEPs. 403(b) plans were not included in these provisions in 2019.	Permits certain 403(b) plans to be operated as MEPs (including as PEPs) and clarifies the annual reporting requirements. It also directs Treasury to issued regulations providing relief from the "one bad apple" rule for 403(b)s and to issue model plan language.	Effective for plan years beginning after December 31, 2022.

TITLE I—EXPANDING COVERAGE AND INCREASING RETIREMENT SAVINGS			
Bill Section	**Current Law**	**New Law**	**Effective Date**
Sec. 107. Increase in age for required beginning date for mandatory distributions	As established by the 2019 SECURE Act, required minimum distributions ("RMDs") generally must begin by age 72. Prior to January 1, 2020, the age at which RMDs were required to begin was 70½.	Increases the RMD age to: (i) 73 for a person who attains age 72 after December 31, 2022 and age 73 before January 1, 2033, and (ii) 75 for an individual who attains age 74 after December 31, 2032.	Effective for distributions made after December 31, 2022, for individuals who attain age 72 after that date.
Sec. 108. Indexing IRA catch-up limit	Currently, annual IRA catch-up contributions for those who are age 50 or over are a flat $1,000 and are not indexed for inflation.	Indexes IRA catch-up contributions in $100 increments in the same manner as the indexing for regular IRA contributions.	Effective for taxable years beginning after December 31, 2023.
Sec. 109. Higher catch-up limit to apply at age 60, 61, 62 and 63	Currently, individuals age 50 and over are allowed to make catch-up contributions to 401(k), 403(b), governmental 457(b), and SIMPLE plans, and the annual catch-up contribution limits are generally indexed for inflation. In 2022, the maximum catch-up contribution for non-SIMPLE plans is $6,500, and $3,000 for SIMPLEs.	Non-SIMPLE plans: Increases the limit on catch-up contributions for individuals age 60-63 to the greater of (i) $10,000 or (ii) 150% of the regular catch-up amount for 2024, indexed for inflation SIMPLE plans: Increases the limit on catch-up contributions for individuals age 60-63 to the greater of (i) $5,000 or (ii) 150% of the regular catch-up amount in 2025, indexed for inflation	Effective for taxable years beginning after December 31, 2024.
Sec. 110. Treatment of student loan payments as elective deferrals for purposes of	Currently, a matching contribution cannot be made based on student loan repayments. The IRS has ruled (through a private letter ruling, and more general guidance is pending) that a plan design that provides for a nonelective employer contribution can be based on student loan repayments without violating the contingent benefit rule.	Employer contributions made on behalf of employees for "qualified student loan payments" are treated as matching contributions, so long as certain requirements are satisfied. Applies to 401(k), 403(b), SIMPLE IRAs, and governmental 457(b) plans. Notably, a plan may treat a qualified student loan payment as an elective deferral or an elective contribution (as applicable) for purposes of the matching contribution requirement under a basic	Effective for plan years beginning after December 31, 2023.

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matching contributions		safe harbor 401(k) plan or an automatic enrollment safe harbor 401(k) plan, as well as for purposes of the Section 401(m) safe harbors. Employers are permitted to apply the ADP test separately to employees who receive matching contributions on account of qualified student loan payments. Employer may rely on employee certification of payment.	
Sec. 111. Application of credit for small employer pension plan startup costs to employers which join an existing plan	Present law provides a nonrefundable income tax credit equal to 50% of the qualified start-up costs paid or incurred during the taxable year by an employer with fewer than 100 employees that adopts a new eligible employer plan (MEP), provided that the plan covers at least one non-highly compensated employee. The credit applies for up to three years beginning with the year the plan is first effective, or, at the election of the employer, with the year preceding the first plan year.	Clarifies that the first credit year is the taxable year that includes the date that the MEP to which the costs relate becomes effective with respect to the eligible employer. This makes the startup tax credit available for three years, regardless of how long the MEP has been in existence.	Effective retroactively for taxable years beginning after December 31, 2019 (as if included in Section 104 of the 2019 SECURE Act).
Sec. 112. Military spouse retirement plan eligibility credit for small employers	N/A	Creates a new, nonrefundable income tax credit for eligible small employers that employ military spouses and allow them to participate in the employer's defined contribution plan, subject to special eligibility and vesting requirements. The tax credit is $200 per participating non-highly compensated military spouse plus 100% of employer contributions, up to an additional $300 per employee, for up to three years.	Effective for taxable years beginning after date of enactment.

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Bill Section	**Current Law**	**New Law**	**Effective Date**
Sec. 113. Small immediate financial incentives for contributing to a plan	The current law contingent benefit rule prohibits 401(k) and 403(b) plan participants from receiving financial incentives (other than matching contributions) for contributing to a plan.	Allows participants to receive de minimis financial incentives (not paid for with plan assets) for contributing to a 401(k) or 403(b) plan, such as gift cards for small amounts, by providing an exemption from the contingent benefit rule and providing relief from the Internal Revenue Code ("Code") and ERISA prohibited transaction rules.	Effective for plan years beginning after the date of enactment.
Sec. 114. Deferral of tax for certain sales of employer stock to employee stock ownership plan sponsored by S corporation	Under current law, an individual owner of stock in a non-publicly traded C corporation that sponsors an ESOP may elect to defer the recognition of gain from the sale of such stock to the ESOP if the seller reinvests the sales proceeds into qualified replacement property, such as stock or other securities issued by a U.S. operating corporation. After the sale, the ESOP must own at least 30% of the employer corporation's stock.	Expands the gain deferral provisions under existing law, with a 10% limit on the deferral, to sales of employer stock to S corporation ESOPs.	Effective for sales of stock after December 31, 2027.
Sec. 115. Withdrawals for certain emergency expenses	Current law imposes a 10% penalty on early withdrawals before normal retirement age from tax-preferred retirement accounts.	Allows one penalty-free withdrawal of up to $1,000 per year for "unforeseeable or immediate financial needs relating to personal or family emergency expenses." The withdrawal may be repaid within three years. Only one withdrawal per three-year repayment period is permitted if the first withdrawal has not been repaid.	Effective for distributions made after December 31, 2023.
Sec. 116. Allow additional nonelective	Present law requires employers with SIMPLE plans to make employer contributions to employees of either 2% of	Allows an employer to make additional contributions to each employee of the plan in a uniform manner, provided that the	Effective for taxable years beginning after December 31, 2023.

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contributions to SIMPLE plans	compensation or 3% of employee elective deferral contributions.	contribution does not exceed the lesser of 10% of compensation or $5,000 (indexed for inflation).	
Sec. 117. Contribution limit for SIMPLE IRAs	Under present law, the annual contribution limit for employee elective deferral contributions to a Simple IRA plan is $15,500 (2023) and the catch-up contribution limit beginning at age 50 is $3,500 (for 2023). A SIMPLE IRA plan may only be sponsored by a small employer (100 or fewer employees), and the employer is required to either make matching contributions of the first 3% of compensation deferred or an employer contribution of 2% of compensation (regardless of whether the employee elects to make contributions).	Increases the annual deferral limit to 110% of the 2024 Simple IRA plan limit (as indexed) and the catch-up contribution limit at age 50 to 110% of the 2024 Simple IRA plan limit (as indexed) in the case of an employer with no more than 25 employees. An employer with 26 to 100 employees would be permitted to provide these higher deferral limits, but only if the employer either provides a 4% matching contribution or a 3% employer contribution. The bill makes similar changes to the contribution limits for SIMPLE 401(k) plans.	Effective for taxable years beginning after December 31, 2023.
Sec. 118. Tax treatment of certain non-trade or business SEP contributions	Current law imposes a 10% excise tax on an employer for making nondeductible contributions to a plan. An exception exists for certain contributions that are deemed nondeductible solely because they are not made in conjunction with a trade or business (*e.g.*, contributions to an IRA for a household employee).	Allows contributions to SEP IRAs or SIMPLE 401(k)s which are not deductible solely because they are not in conjunction with a trade or business to be excluded from the 10% excise tax.	Effective for taxable years beginning after the date of enactment.

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Bill Section	**Current Law**	**New Law**	**Effective Date**
Sec. 119. Application of Section 415 limit for certain employees of rural electric cooperatives	Code Section 415 generally limits the amount that may be paid by a defined benefit plan in annual benefits to a participant to the lesser of an indexed dollar amount ($265,000 in 2023) or 100% of the participant's average compensation.	Eliminates the compensation-based limit for employees who are participants in eligible rural electric cooperative plans, if the employee is a non-highly compensated employee.	Effective for limitation years ending after the date of enactment.
Sec. 120. Exemption for certain automatic portability transactions	Plans are permitted to involuntarily distribute terminated vested accounts of under $5,000. Those amounts are generally distributed to an IRA or, for accounts under $1,000, may be distributed as a check. An industry consortium – the Portability Services Network – recently launched a program to facilitate the automated roll-in of involuntarily distributed accounts back into an employer-provided plan with an active account for the participant. The discretion to execute the roll-in implicates the prohibited transaction rules under the Code.	Creates a statutory exemption from the prohibited transaction rules under Section 4975 of the Code providing relief when an entity receives compensation in connection with the transfer of an involuntary distribution (made under Code Section 401(a)(31)(B)(i)) from an IRA into an employer-provided defined contribution plan after the individual has been given timely notice and has not opted out. The relief is subject to a number of conditions. DOL is directed to issue certain guidance and studies related to the exemption. Treasury also directed to issue a report regarding the involuntary distribution notices.	Effective beginning one year after the date of enactment.
Sec. 121. Starter 401(k) plans for employers with no retirement plan	N/A	Creates two new plan designs for employers that do not sponsor a retirement plan: a "starter 401(k) deferral-only arrangement" and a "safe harbor 403(b) plan." These plans would generally require that all employees be enrolled in the plan with a deferral rate of 3% to 15% of compensation. The limit on annual deferrals would be the same as the IRA contribution limit ($6,000 for 2022, with an additional $1,000 catch-up beginning at age 50). The limit on	Effective for plan years beginning after December 31, 2023.

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		annual deferrals is $6,000, with an additional $1,000 catch-up beginning at age 50, with both limits indexed for inflation.	
Sec. 123. Certain securities treated as publicly traded in case of employee stock ownership plans	Current law specifies whether a security is a "publicly traded employer security" and "readily tradeable on an established securities market" for the purposes of ESOPs.	For purposes of required diversification rules related to plan qualification, allows certain non-exchange traded securities to qualify as "publicly traded employer securities" so long as the security is subject to priced quotations by at least four dealers on an SEC-regulated interdealer quotation system; is not a penny stock and is not issued by a shell company; and has a public float of at least 10% of outstanding shares. For securities issued by domestic corporations, the issuer must publish annual audited financial statements. Securities issued by foreign corporations are subject to additional depository and reporting requirements.	Effective for plan years beginning after December 31, 2027.
Sec. 124. Modification of age requirement for qualified ABLE programs	Section 529A provides for a tax-favored savings program intended to benefit disabled individuals, known as a qualified ABLE program. Eligibility is limited to individuals who become blind or disabled before age 26.	Increases the ABLE account eligibility age from 26 to 46.	Effective for taxable years beginning after December 31, 2025.
Sec. 125. One-year reduction in period of service requirement for	Under current law as amended by the SECURE Act, 401(k) plans generally must permit an employee to contribute to a plan if the employee worked at least 500 hours per year with the employer for at least three consecutive years and has met the minimum age requirement (age 21) by the end of the three-consecutive-year period.	Reduces from three to two the required years of service before long-term, part-time workers are eligible to contribute to a plan. Pre-2021 service is also disregarded for purposes of the vesting of employer contributions (and pre-2023 service is disregarded for	Generally effective for plan years beginning after December 31, 2024. The clarification that pre-2021 service may

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long-term, part-time workers	In the case of employees who are eligible solely by reason of the rule for long-term, part-time employees, the employer may elect to exclude such employees from the nondiscrimination testing and coverage rules, and from the application of the top-heavy vesting and benefit rules, and such an employer is not required to make matching or nonelective contributions to such employees. 12-month periods beginning before January 1, 2021, are disregarded for purposes of its special eligibility rule for long-term, part-time employees (but not for vesting purposes).	eligibility and vesting purposes under the new, SECURE 2.0 part-time employee provision). Extends the long-term, part-time coverage rules to 403(b) plans that are subject to ERISA.	be disregarded for vesting purposes is effective as if included in the 2019 SECURE Act, so effective for plan years beginning after December 31, 2020.
Sec. 126. Special rules for certain distributions from long-term	Code Section 529 qualified tuition programs permit contributions to tax-advantaged accounts that can be invested and used to pay for the qualified education expenses of a designated beneficiary. Amounts in 529 plans	Allows certain assets in a 529 qualified tuition program account maintained for at least 15 years for a designated beneficiary to be directly rolled over on a tax-free basis to a Roth IRA maintained for the benefit of the beneficiary. The rollover is subject to the	Effective for distributions after December 31, 2023.

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Bill Section	**Current Law**	**New Law**	**Effective Date**
qualified tuition programs to Roth IRAs	not used for qualified education expenses may not be rolled over to a Roth IRA or other types of retirement plans.	limits on Roth IRA contributions and the requirement that a Roth IRA owner have includible compensation at least equal to the amount of the rollover. Permitted rollovers would be limited to (1) the aggregate amount of contributions to the account (and earnings thereon) before the 5-year period ending on the date of rollover, and (2) a lifetime limit of $35,000.	
Sec. 127. Emergency savings accounts linked to individual account plans	Some employers have begun offering emergency savings accounts ("ESAs") both inside and outside qualified plans. The "in plan" approach is complicated by a lack of clarity with respect to certain ERISA and Code issues.	Permits a plan sponsor to amend its plan to offer short-term emergency savings accounts ("ESAs") as part of a defined contribution plan. ESAs must be funded post-tax with Roth contributions, and participants may be automatically enrolled at a rate of up to 3% of compensation. Contributions are capped at $2500 (indexed for inflation) or a lower amount determined by the sponsor, and there cannot be minimum contribution or balance requirements. Participants must be allowed to take at least one withdrawal per month, and the first four withdrawals per year cannot be subject to fees. ESAs may be invested in cash, interest bearing deposit accounts, and principal preservation accounts, and there is a fiduciary safe harbor for automatic enrollment. The provision provides for the preemption of state anti-garnishment laws.	Effective for plan years beginning after December 31, 2023.
Sec. 128. Enhancement of 403(b) plans	403(b) plan investments are generally limited to annuity contracts and mutual funds. The IRS guidance indicates that 403(b) plans are permitted to invest in collective investment	Amends the Code to explicitly allow 403(b) plans with custodial accounts to invest in collective investment trusts. However, the legislation does not address the securities law issues that prohibit such investments in most cases.	Effective for amounts invested after date of enactment.

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Bill Section	**Current Law**	**New Law**	**Effective Date**
	trusts (81-100 trusts), but such investment is generally prohibited by the securities laws.		

TITLE II—PRESERVATION OF INCOME			
Bill Section	**Current Law**	**New Law**	**Effective Date**
Sec. 201. Remove required minimum distribution barriers for life annuities	All annuity payments must be nonincreasing or only increase following the limited exceptions. One exception is for annuity contracts purchased from insurance companies, which permits increases that meet an actuarial test. The current annuities actuarial test does not permit certain guarantees such as certain guaranteed annual increases, return of premium death benefits, and period certain guarantees for participating annuities.	Amends the RMD rules to relax these rules and permits commercial annuities that are issued in connection with any eligible retirement plan to provide additional types of payments, such as certain lump sum payments and annual payment increases at a rate less than 5% annually.	Calendar years ending after the date of enactment.
Sec. 202. Qualifying longevity annuity contracts ("QLACs")	Existing regulations limit the premiums an individual can pay for a QLAC to the lesser of $125,000 (indexed) or 25% of the individual's account balance. It also provides for other restrictions on non-spouse death benefits.	Eliminates the 25% limit and increases the dollar limit from $125,000 (indexed) to $200,000 (indexed). Clarifies that a divorce occurring after a QLAC is purchased but before payments begin will not affect the permissibility of the joint and survivor benefits under the contract. Further clarifies that employees may rescind a contract during the 90-day trial period ("short free-look period").	Generally effective for contracts purchased on or after enactment. For joint and survivor annuity contracts and the short free look period, the provisions are effective for

TITLE II—PRESERVATION OF INCOME			
Bill Section	**Current Law**	**New Law**	**Effective Date**
			contracts purchased on or after July 2, 2014.
Sec. 203. Insurance-dedicated exchange-traded funds	Code Section 817 describes the tax treatment afforded to non-qualified variable annuity and life insurance contracts. Treasury Regulations under section 817 describe the diversification requirements applicable to the underlying investments of variable contract separate accounts. Currently, "look through" treatment is available to satisfy adequate diversification requirements for holdings of insurance-dedicated funds (*i.e.*, funds available for investment exclusively under variable contracts). ETFs, which require investment by "authorized participants" and "market makers" are unable to qualify as insurance-dedicated funds.	Directs the Secretary of the Treasury to amend Treasury Regulation Section 1.817-5(f)(3) in a manner that would allow ETFs to qualify as insurance-dedicated funds notwithstanding holdings in such funds by "authorized participants" and "market makers". The new law defines such terms in a manner that precludes ETF purchase and sale activity to or on behalf of ineligible investors (*i.e.*, so as to preclude investment access by the general public).	Treasury Regulations are to be amended within 7 years of the date of enactment and such amendments are to be effective for insurance company separate account investments made on or after the date that is 7 years after the date of enactment.
Sec. 204. Eliminating a penalty on partial annuitization	Current regulations provide that if a retirement account holds an annuity contract and other assets, the RMD is calculated by bifurcating the account into the annuity contracts (which follow defined benefit plan rules) and the other assets (which follow defined contribution plan rules). This approach can result in higher RMDs than if the account did not hold annuity contracts.	Directs the Secretary of the Treasury to update the applicable regulations as follows: to calculate the RMD for a retirement account that holds annuity contracts and other assets, the employee may elect to have the RMD calculated by applying the defined contribution rules to the entire account. In performing that calculation, the account balance will include the value of the annuity contracts, and the payments from those annuity contracts will be applied toward satisfying the RMD.	Effective upon enactment. Taxpayers can rely on their reasonable good faith interpretation of this rule until Treasury regulations are updated.

TITLE III—SIMPLIFICATION AND CLARIFICATION OF RETIREMENT PLAN RULES			
Bill Section	**Current Law**	**New Law**	**Effective Date**
Sec. 301. Recovery of retirement plan overpayments	Fiduciaries for plans that have mistakenly overpaid a participant must take reasonable steps to recoup such overpayment, such as collecting the overpayment from the participant or employer in order to maintain the tax-qualified status of the plan and comply with ERISA. EPCRS includes various procedures for correcting overpayments made from defined benefit and defined contribution plans. The Pension Benefit Guaranty Corporation ("PBGC") also has overpayment recoupment policies for terminating defined benefit plans.	A 401(a), 403(a), 403(b), and governmental plan (but not including a 457(b) plan) will not fail to be a tax favored plan merely because the plan fails to recover an "inadvertent benefit overpayment" or otherwise amends the plan to permit this increased benefit. In certain cases, the overpayment is also treated as an eligible rollover distribution. There is also fiduciary relief for failure to make the plan whole. However, the plan sponsor must still satisfy minimum funding requirements and prevent/restore an impermissible forfeiture. For ERISA-covered plans, if the plan sponsor elects to offset future plan payments to recover the overpayment, restrictions will be imposed on the offset. Moreover, restrictions will be imposed on collection efforts from the participant (*e.g.*, no interest, must recover within three years).	Effective upon enactment with certain retroactive relief for prior good faith interpretations of existing guidance.
Sec. 302. Reduction in excise tax on certain accumulations in qualified retirement plans	Existing law imposes an excise tax on an individual if the amount distributed to an individual during a taxable year is less than the RMD under the plan for that year. The excise tax is equal to 50% of the shortfall (that is, 50% of the amount by which the RMD exceeds the actual distribution). (The excise tax may be abated under a reasonable cause exception or through a VCP submission.)	Reduces the excise tax for failure to take RMDs from 50% of the shortfall to 25%. Further reduces the excise tax to 10% if the individual corrects the shortfall during a two-year correction window.	Effective for taxable years beginning after the date of enactment.

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Bill Section	**Current Law**	**New Law**	**Effective Date**
Sec. 303. Retirement savings lost and found	N/A	Directs the DOL to create an online searchable "Lost and Found" database to collect information on benefits owed to missing, lost or non-responsive participants and beneficiaries in tax-qualified retirement plans and to assist such plan participants and beneficiaries in locating those benefits. This applies to tax-qualified defined benefit and defined contribution plans subject to ERISA vesting provisions.	Directs the creation of the database no later than two years after the date of enactment of SECURE 2.0.
Sec. 304. Updating dollar limit for mandatory distributions	Under current law, employers may immediately distribute without the consent of the participant and directly rollover former employees' retirement accounts from a workplace retirement plan into an IRA if their balances are no more than $5,000.	Increases the involuntary cash-out limit to $7,000 from $5,000.	Effective for distributions after December 31, 2023.
Sec. 305. Expansion of Employee Plans Compliance Resolution System ("EPCRS")	Under existing rules, employer sponsors of qualified plans have only limited opportunities to self-correct plan errors under EPCRS. This generally involves operational failures that are insignificant (or otherwise corrected within a three-year period).	Allows any eligible inadvertent failure (as defined in Sec. 305(e)) to be self-corrected under EPCRS at any time (regardless of whether the error is significant or insignificant) unless (i) the IRS identified the failure before self-corrective measures commenced, or (ii) the self-correction was not completed in a reasonable period after the failure was identified. A loan error that is an eligible inadvertent failure may be self-corrected under EPCRS, and the DOL must treat the self-corrected failure as meeting the requirements of the DOL's Voluntary Fiduciary Correction Program, but may impose reporting or other procedural requirements.	Effective upon enactment.

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Bill Section	**Current Law**	**New Law**	**Effective Date**
		This covers 401(a), 403(a), 403(b), 408(p)(SIMPLE IRAs) and 408(k) (SEPs). The Treasury Department is directed to expand EPCRS to (i) allow IRA custodians to address eligible inadvertent failures, and (ii) add preapproved correction methods for eligible inadvertent failures, including general principles of correction, and to update Revenue Procedure 2021-30 for these changes within two years after enactment.	
Sec. 306. Eliminate the "first day of the month" requirement for governmental Section 457(b) plans	Currently, participants in a 457(b) plan generally may only defer compensation if an agreement providing for the deferral has been entered into before the first day of the month in which the compensation is paid or made available.	Conforms rule for governmental 457(b) plans to rule for 401(k) and 403(b) plans by allowing participants of governmental 457(b) plans to change their deferral rate at any time before the compensation is available to the individual. For tax-exempt 457(b) plans, participants may defer compensation for any calendar month only if an agreement providing for such deferral has been entered into before the beginning of such month.	Effective for taxable years beginning after the date of enactment.
Sec. 307. One-time election for qualified charitable distribution ("QCD") to split-interest entity; increase	Under current law, certain charitable IRA distributions (called qualified charitable distributions) up to $100,000 are excluded from gross income of the individual. QCDs also count for minimum required distribution purposes.	Allows individuals to make a one-time election of up to $50,000 (indexed for inflation) for qualifying charitable distributions to certain split-interest entities, including charitable remainder annuity trusts, charitable remainder unitrusts, and charitable gift annuity. Indexes the $100,000 limit, and new, one-time $50,000 limit, to inflation for taxable years beginning after 2023.	One-time election of up to $50K is effective for distributions made in taxable years beginning after the date of enactment. Indexed distribution

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Bill Section	**Current Law**	**New Law**	**Effective Date**
in qualified charitable distribution limitation			limits are effective for distributions in taxable years ending after the date of enactment.
Sec. 308. Distributions to firefighters	Current law permits "qualified public safety employees" in a governmental plan to take retirement withdrawals beginning at age 50 after separation from service without incurring a 10% early withdrawal penalty.	Extends the age 50 early withdrawal exception for qualified public safety employees to also apply to private sector firefighters receiving distributions from a qualified retirement plan or 403(b) plan.	Effective for distributions made after the date of enactment.
Sec. 309. Exclusion of certain disability-related first responder retirement payments	Disability-related retirement plan payments are typically included in the recipient's taxable income.	For first responders, excludes service-connected, disability pension payments (from a 401(a), 403(a), governmental 457(b), or 403(b) plan) from gross income after reaching retirement age up to an annualized excludable disability amount.	Effective for plan years beginning after December 31, 2026.
Sec. 310. Application of top-heavy rules to defined contribution plans covering	Generally, for a defined contribution plan, the top-heavy minimum contribution is 3% of the participant's compensation. A defined contribution plan is top-heavy if the aggregate of accounts for key employees exceeds 60% of the aggregate accounts for non-key employees. If a plan is top-heavy, minimum contributions or benefits must be	Allows a top-heavy plan that covers otherwise excludable employees (employees that do not satisfy the Code's minimum age and service eligibility rules – age 21 and one year of service) to perform separate top-heavy testing for excludable and non-excludable employees.	Effective for plan years beginning after December 31, 2023.

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excludable employees	provided for non-key employees and, in some cases, faster vesting is required.		
Sec. 311. Repayment of qualified birth or adoption distribution limited to three years	Following the SECURE Act, current law does not limit the period during which a qualified birth or adoption distribution may be repaid and qualify as a rollover distribution.	Requires qualified birth or adoption distributions to be recontributed within three years of the distribution in order to qualify as a rollover contribution. (This aligns the rule with similar disaster relief provisions and simplifies plan administration.)	Effective for distributions made after the date of the enactment. For prior distributions, the repayment period ends December 31, 2025.
Sec. 312. Employer may rely on employee certifying that deemed hardship distribution conditions are met	Applicable Treasury regulations provide that hardship distributions may be made on account of an immediate and heavy financial need or an unforeseeable emergency, if limited to the amount necessary to satisfy the financial need. These needs are evaluated using facts and circumstances, but there are certain safe harbor events that are deemed to be on account of a hardship. Employees must provide a written representation that they have insufficient cash or liquid assets reasonably available to satisfy the need. (In general, the employee must submit records documenting the safe harbor event constituting a hardship, although there is a streamlined hardship documentation method outlined in the Internal Revenue Manual that uses a self-certification process if certain requirements are met.)	Allows a plan administrator to rely on an employee's self-certification that they have had a safe harbor event that constitutes a deemed hardship for purposes of taking a hardship withdrawal from a 401(k) plan or a 403(b) plan. The administrator can also rely on the employee's certification that the distribution is not in excess of the amount required to satisfy the financial need and that the employee has no alternative means reasonably available to satisfy the financial need. A similar rule applies for purposes of unforeseeable emergency distributions from governmental Section 457(b) plans.	Effective for plan years beginning after the date of enactment.

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Sec. 313. Individual retirement plan statute of limitations for excise tax on excess contributions and certain accumulations	The Code imposes excise taxes on excess contributions made to IRAs (Section 4973) and failures to distribute RMDs from plans and IRAs (Section 4974). The statute of limitations with respect to a tax liability for excess retirement contributions or accumulations generally starts to run within three years after the excise tax return (*e.g.*, Form 5329) is filed, but if such a return is never filed, the statute does not begin to run.	For purposes of any excise tax imposed on excess contributions or on certain accumulations in connection with an IRA (Code Section 4973 and 4974), the bill provides that the applicable return to start the statute of limitation includes the income tax return filed by the person on whom the tax is imposed for the year in which the act (or failure to act) giving rise to the liability for such tax occurred. Therefore, the filing of Form 5329 should no longer be required to start the statute of limitations for these penalties. However, if the income tax return is used to start the running of the statute of limitation, the statute of limitations is six years rather than three years for Code Section 4973 excise tax. And this relief does not apply if the 4973 excise tax is due to acquiring property for less than fair market value. For a person not required to file a return for that year, the statute of limitations begins on the date that the return would have been required to be filed.	Effective upon enactment.
Sec. 314. Penalty-free withdrawal from retirement plans for individual in	N/A	Permits certain penalty-free early withdrawals in the case of domestic abuse in an amount not to exceed the lesser of $10,000 (indexed) or 50% of the value of the employee's vested account under the plan. In addition, such eligible distributions to a domestic abuse victim (defined by the amendment to Code Sec. 72(t)(2)(K)(iii)(II)) may be	Effective for distributions made after December 31, 2023.

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case of domestic abuse		recontributed to applicable eligible retirement plans, subject to certain requirements. (This is similar to the QBAD provision.) This also provides for an in-service distribution event for 401(k), 403(b), and governmental 457(b) plans.	
Sec. 315. Reform of family attribution rule	Current law provides family attribution rules to address scenarios in which a person, such as a family member, is treated as having an ownership interest in a business. These rules take into account the laws on familial property ownership in a community property state. These rules are important for determining who is the employer and in the controlled group/affiliated service group for various testing and distribution rights.	Adds special rules to address family attribution and to disregard community property laws for purposes of determining ownership of a business. To the extent these changes result in changes to the members of a controlled group or affiliated service group, transition relief under Code Section 410(b)(6)(C) will apply.	Effective for plan years beginning after December 31, 2023.
Sec. 316. Amendments to increase benefit accruals under plan for previous plan year allowed until employer tax return due date.	Current law provides a remedial amendment period for plans to meet qualification requirements. In general, a discretionary plan amendment (which would include an increase in benefit accruals) must be adopted by the end of the plan year in which it is effective.	Allows plans to make discretionary plan amendments (subject to satisfaction of applicable Code requirements) to increase benefits until the employer's tax filing deadline (including extensions) for the immediately preceding taxable year in which the amendment is effective. This applies to stock bonus, pension, profit-sharing, or annuity plan to increase benefits for the preceding plan year (other than increasing matching contributions).	Effective for plan years beginning after December 31, 2023.

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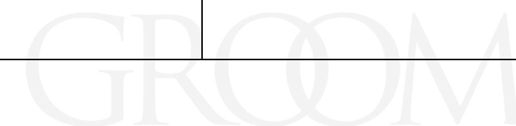
Sec. 317. Retroactive first year elective deferrals for sole proprietors	Under Section 201 of the SECURE Act, a Section 401(k) plan of a sole proprietor can be funded with employer contributions as of the due date for the business's return, but elective deferrals may not be made retroactively.	For a sole proprietor's first plan year (if the owner is the only employee), allows elective deferrals to be made by the tax filing due date (determined without regard to any extensions).	Effective for plan years beginning after enactment.
Sec. 318. Performance benchmarks for asset allocation funds	Existing regulations require a plan fiduciary to supply certain performance and benchmark data to participants about their investment options.	Requires the Secretary of Labor to modify existing regulations within two years of enactment to provide that, in the case of a designated investment alternative which contains a mix of asset classes, a plan administrator may, but is not required to, use a benchmark which is a blend of different broad-based securities market indices. DOL has to submit a report to Congress three years after the applicability date of the final regulations.	Effective upon enactment.
Sec. 319. Review and report to the Congress relating to reporting and disclosure requirements	Plans are currently required to file reports with federal agencies (*e.g.*, Form 5500) and provide numerous notices to participants (*e.g.*, Summary Plan Description).	Requires the Secretaries of Labor and Treasury and the Director of the PBGC to study the disclosure and reporting requirements on plan sponsors and submit a report to Congress within three years of enactment addressing possible avenues for simplification, consolidation, or standardization.	Effective upon enactment.



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Bill Section	**Current Law**	**New Law**	**Effective Date**
Sec. 320. Eliminating unnecessary plan requirements related to unenrolled participants	Under current rules, employees who choose not to participate in an employer-sponsored plan ("unenrolled participants") are required to receive numerous communications from the plan sponsor.	Amends the requirements under ERISA and the Code for defined contribution plan sponsor notices to unenrolled participants to consist solely of an annual notice of eligibility to participate during the annual enrollment period (and providing any document so entitled upon request).	Effective for plan years beginning after December 31, 2022.
Sec. 321. Review of pension risk transfer interpretive bulletin	DOL Interpretive Bulletin 95-1 provides guidance for fiduciaries selecting an annuity provider for a defined benefit plan, including "annuity liftouts" under ongoing plans.	Requires DOL to review Interpretive Bulletin 95-1 regarding pension risk transfers to determine whether amendments are warranted and to report to Congress its findings within one year of enactment.	Effective upon enactment.
Sec. 322. Tax treatment of IRA involved in a prohibited transaction	If an IRA owner or beneficiary engages in a prohibited transaction with respect to the IRA, the IRA loses its tax-favored status and ceases to be an IRA as of the first day of the taxable year in which the prohibited transaction occurs. As a result, the IRA is treated as distributing to the individual on the first day of that taxable year the fair market value of all of the assets in the account.	Clarifies that, for this purpose, each IRA of the individual shall be treated as a separate contract.	Effective for taxable years beginning after enactment.

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Sec. 323. Clarification of substantially equal periodic payment rule	Present law imposes a 10% tax penalty on early distributions from tax-preferred retirement accounts, but an exception applies to substantially equal periodic payments that are made over the account owner's life expectancy if certain criteria are met.	Clarifies that the exception for substantially equal periodic payments continues to apply after certain rollovers and for certain annuities.	Effective for transfers, rollovers, and exchanges after December 31, 2023, and effective for annuity distributions on or after the date of enactment of SECURE 2.0.
Sec. 324. Treasury guidance on rollovers	N/A	Requires the Secretary of the Treasury to develop and release sample forms to simplify, standardize, facilitate and expedite (i) rollovers of eligible rollover distributions from employer-sponsored retirement plans to another such plan or IRA, and (ii) trustee-to-trustee transfers of amounts from an IRA to another IRA, no later than January 1, 2025.	Effective upon enactment.
Sec. 325. Roth plan distribution rules	Under current law, Roth IRAs – but not Roth amounts in 401(k), etc. plans – are exempt from pre-death RMD rules.	Extends the pre-death RMD exemption to Roth amounts in plans.	Effective generally for taxable years beginning after December 31, 2023, but not with respect to distributions required before January 1, 2024.

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Sec. 326. Exception to penalty on early distributions from qualified plans for individuals with a terminal illness	Present law imposes a 10% tax penalty on early distributions from tax-preferred retirement accounts unless certain exceptions apply.	Creates an exception to the 10% early withdrawal penalty for distributions to individuals whose physician certifies that they have an illness or condition that is reasonably expected to result in death in 84 months or less.	Effective upon enactment.
Sec. 327. Surviving spouse election to be treated as employee	Current law allows a sole designated spousal beneficiary to treat a deceased IRA owner's IRA as their own for purposes of RMD rules.	Provides similar post-death spousal RMD rules to plans: Allows a spousal beneficiary to irrevocably elect to be treated as the employee for RMD purposes and if the spouse is the employee's sole designated beneficiary, the applicable distribution period after the participant's year of death is determined under the uniform life table.	Effective for calendar years beginning after December 31, 2023.
Sec. 328. Repeal of direct payment requirement on exclusion from gross income of distributions from governmental	Current law provides an exclusion from gross income for up to $3,000 for distributions made by governmental retirement plans to pay for health insurance premiums of certain eligible retired public safety officers, provided the premiums are paid directly by the plan.	Allows the plan to distribute funds to pay for qualified health insurance premiums (1) directly to the insurer or (2) directly to the participant (but the participant must include a self-certification that such funds did not exceed the amount paid for premiums in the year of the distribution when filing the tax return for that year).	Effective for distributions made after the date of enactment.

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plans for health and long-term care insurance			
Sec. 329. Modification of eligible age for exemption from early withdrawal penalty	Qualified public safety employees may receive distributions from governmental plans after separating from service after attaining age 50 without being subject to the 10% early withdrawal penalty.	Extends the age 50 exception to the 10% early withdrawal penalty to those qualified public safety employees who have separated from service and have attained age 50 or 25 years of service, whichever comes first.	Effective for distributions made after the date of enactment.
Sec. 330. Exemption from early withdrawal penalty for certain state and local government corrections employees	Qualified public safety employees may receive distributions from governmental plans after separating from service after attaining age 50 without being subject to the 10% early withdrawal penalty.	Expands the definition of qualified public safety employee to include certain corrections officers and forensic security employees, thus making them eligible for the age 50 exception to the 10% early withdrawal penalty.	Effective for distributions made after the date of enactment.
Sec. 331. Special rules for the use of retirement funds in	In recent years, Congress has eased plan distribution and loan rules in cases of disaster on a case-by-case basis.	Provides permanent special rules governing plan distributions and loans in cases of qualified federally declared disasters. • Up to $22,000 may be distributed to a participant per disaster;	Effective for disasters occurring on or after January 26, 2021.

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connection with qualified federally declared disasters		• Amount is exempt from the 10% early withdrawal fee; • Inclusion in gross income may be spread over 3-year period; • Amounts may be recontributed to a plan or account during the 3-year period beginning on the day after the date of the distribution; • Allows certain home purchase distributions to be recontributed to a plan or account if those funds were to be used to purchase a home in a disaster area and were not so used because of the disaster; and • Increases the maximum loan amount for qualified individuals and extends the repayment period.	
Sec. 332. Employers allowed to replace SIMPLE retirement accounts with safe harbor 401(k) plans during a year	Current law prohibits the replacement of a Simple IRA plan with a 401(k) plan mid-year. Rollovers from the SIMPLE IRA to the 401(k) plan can take place if the SIMPLE IRA has been in place for at least two years.	Permits an employer to elect to replace a SIMPLE IRA plan with a safe harbor 401(k) plan at any time during the year, provided certain criteria are met. The 2-year rollover limitation in SIMPLE IRAs converting to a 401(k) or 403(b) plan is waived.	Effective for plan years beginning after December 31, 2023.
Sec. 333. Elimination of additional tax	Current law requires a corrective distribution of an excess contribution to an IRA, along with any earnings on the excess	Exempts corrective distributions and corresponding earnings from the 10% early withdrawal penalty.	Effective for any determination of, or affecting, liability for

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on corrective distributions of excess contributions	contribution. The distribution is subject to the 10% early withdrawal penalty.		taxes, interest or penalties that is made on or after the date of enactment (without regard to whether the act or failure to act upon which the determination is based occurred before the date of enactment).
Sec. 334. Long-term care contracts purchased with retirement plan distributions	Plans may only make distributions for approved reasons. Existing law provides favorable tax treatment for various forms of health and disability insurance. Existing law also imposes a 10% tax penalty on early distributions from tax-preferred retirement accounts unless certain exceptions apply.	Permits retirement plans to distribute a certain amount per year for certain long-term care insurance contracts. The amount permitted to be distributed is the lowest of: (1) the amount paid by or assessed to the employee during the year for long-term care insurance; (2) 10% of the employee's vested accrued benefit in the plan; or (3) $2,500 (this dollar amount will be indexed for inflation beginning in 2025). Distributions from plans and IRAs would be exempt from the 10% penalty on early distributions if used to pay premiums for high quality, long-term care insurance.	Effective beginning with distributions three years after the date of enactment.
Sec. 335. Corrections of mortality tables	Mortality rates used to calculate minimum funding for defined benefit plans are based on mortality tables, which are updated by applying "mortality improvement rates." These	Directs the Secretary of the Treasury to update the minimum funding regulations to apply a cap on mortality improvement rates. For valuation dates occurring on or after 2024, the mortality	Effective upon enactment, but not

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	improvement rates are based on mortality trends (currently from the Society of Actuaries Mortality Improvement Scale MP-2020 Report). The improvement rates are not capped or limited under the current regulations.	improvement rates cannot assume for years beyond the valuation date future mortality improvements at any age which are greater than 0.78%. This 0.78 figure may be updated to reflect overall mortality changes as projected by the Social Security Administration.	practically effective until 2024.
Sec. 336. Report to Congress on Section 402(f) notices	Section 402(f) notices are given by employer retirement plans in the case of a distribution to a participant that is eligible for rollover to another tax preferred retirement account, and describes distribution options and tax consequences.	Requires the Government Accountability Office to issue a report to Congress on the effectiveness of Section 402(f) notices, and to make recommendations to facilitate better understanding of distribution options and tax consequences, no later than 18 months after enactment.	Effective upon enactment.
Sec. 337. Modification of required minimum distribution rules for special needs trusts	Current law places limits on the ability of beneficiaries of defined contribution retirement plans and IRAs to receive lifetime distributions after the account owner's death. Special rules apply in the case of certain beneficiaries, such as those with a disability.	Clarifies that in the case of a special needs trust established for certain beneficiaries (*e.g.*, a beneficiary with a disability), the trust may provide for a charitable organization as the remainder beneficiary.	Effective for calendar years beginning after enactment of SECURE 2.0.
Sec. 338. Requirement to provide paper statements in certain cases	ERISA requires plan administrators to periodically furnish participants and beneficiaries with statements describing the individual's benefit under the plan. In defined contribution plans, benefit statements must be provided at least once each calendar quarter, if the participant has the right to direct investments, and at least once each calendar year in other	Modifies the pension benefit statements requirement to generally require that: - for a defined contribution plan, at least one statement must be provided on paper in written form for each calendar year; and	Effective for plan years beginning after December 31, 2025.

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	cases. In defined benefit plans, benefit statements must generally be delivered at least once every three years. DOL disclosure regulations include various document delivery safe harbors. DOL updated the disclosure regulations in 2020 to add a new safe harbor to the two existing safe harbors: (i) the 2002 safe harbor generally applies to individuals who either have (a) the ability to effectively access electronic documents at work through an electronic system, the use of which is an integral part of the employee's duties; or (b) consented to receive notices electronically; and (ii) the 2020 safe harbor allows a plan administrator to utilize electronic media to furnish retirement plan notices where the plan administrator complies with certain notice, access, and other requirements and the participant does not opt-out of electronic disclosure.	- for a defined benefit plan, at least one statement must be provided on paper every three years. Exceptions allowed for plans that allow employees to opt in to e-delivery if the plan follows the 2002 safe harbor. Also directs the Secretary to make changes by December 31, 2024 to the e-delivery rules to include certain participant protections including requiring a one-time initial paper notice, prior to the first pension benefit statement being delivered electronically, informing the participant of her right to receive all required disclosures on paper.	
Sec. 339. Recognition of Tribal government domestic relations orders	Under present law, plan administrators cannot assign the benefit of a participant pursuant to a domestic relations order issued by a Tribal government.	Allows domestic relations orders issued by Indian tribal governments to be recognized as "qualified domestic relations orders" to provide the same exception for Tribal domestic relations orders from the prohibition on assignment or alienation of benefits as had previously applied to State issued domestic relations orders.	Effective for domestic relations orders received by plan administrators after December 31, 2022, including any such order which is submitted for reconsideration after such date.

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Sec. 340. Defined contribution plan fee disclosure improvements	In July 2021, the Government Accountability Office issued a **report** entitled, "401(k) Retirement Plans: Many Participants Do Not Understand Fee Information, but DOL Could Take Additional Steps to Help Them." The Government Accountability Office made 5 specific recommendations to DOL.	Builds on the Government Accountability Office report to require the Secretary of Labor to review guidance on fiduciary requirements for disclosure in participant-directed individual account plans, explore through a public request for information, weigh potential improvements, and report to Congress. Report due within three years of enactment.	Effective upon enactment.
Sec. 341. Consolidation of defined contribution plan notices	ERISA and the Code require a number of individual mandatory plan notices.	Directs the Secretaries of the Treasury and Labor to adopt regulations allowing, but not requiring, plan sponsors to consolidate two or more mandatory notices under ERISA Sections 404(c)(5)(B) and 514(e)(3) and Code Sections 401(k)(12)(D), 401(k)(13)(E), and 414(w)(4) into a single notice. The Section specifically states that it shall not be interpreted as preventing the consolidation of any other notices required under ERISA or the Code to the extent otherwise permitted. Regulations must be promulgated within two years of enactment.	Effective upon enactment.
Sec. 342. Information Needed for Financial	Under present law, defined benefit plans are permitted to offer lump-sum buy-outs to plan participants in lieu of future lifetime payments. A 2015 Government Accountability Office	Requires plan sponsors to provide beneficiaries with certain information regarding lump-sum offers 90 days before a decision period, including how to compare lump-sum offers to the value of	Requires Departments of Labor and the Treasury to issue joint

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Options Risk Mitigation (INFORM) Act	**report** found that participants need better information before making such a decision.	lifetime benefits, details about the election period, and other information. Plan sponsors must also provide data to DOL and PBGC regarding the lump sums being offered to participants as well as provide a model notice.	regulations within one year of enactment.
Sec. 343. Defined benefit annual funding notices	Administrators of all defined benefit plans that are subject to title IV of ERISA are required to provide an annual funding notice to the PBGC, to each plan participant and beneficiary, to each labor organization representing such participants or beneficiaries, and, in the case of a multiemployer plan, to each employer that has an obligation to contribute to the plan. An annual funding notice must include, among other things, the plan's funding percentage, a statement of the value of the plan's assets and liabilities and a description of how the plan's assets are invested as of specific dates, and a description of the benefits under the plan that are eligible to be guaranteed by the PBGC.	Amends existing defined benefit plan notices to require additional information regarding plan funding status. The most relevant additional information required is as follows: • A statement of the value of the plan's assets and liabilities for the preceding two years in addition to the already required plan year to which the notice relates; • A statement of the number of participants who are (i) retired or separated from service and are receiving benefits, (ii) retired or separated participants entitled to future benefits, and (iii) active participants under the plan for the preceding two plan years in addition to the already required plan year to which the notice relates; • Information regarding the average return on assets for the plan year; • For single employer plans, a statement as to whether the plan's funded status for the plan year to which the notice relates and for the two preceding plan years, is at least 100%, and if not, the actual percentage. This also includes	Effective for plan years beginning after December 31, 2023.

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		more detailed information on plan assets, liabilities and funded status; and • For single employer plans, a statement that if plan assets are determined to be sufficient to pay vested benefits that are not guaranteed by the PBGC, participants and beneficiaries may receive benefits in excess of the guaranteed amount, and that such a determination generally uses assumptions that result in a plan having a lower funded status compared to the disclosed funded status.	
Sec. 344. Report on pooled employer plans	N/A	Requires DOL to study PEPs, including the number of PEPs, the number of participants, fees, disclosure, enforcement actions, and other items. Report must be published within 5 years of enactment and every 5 years thereafter.	Effective upon enactment.
Sec. 345. Annual audits for group of plans	Under current law, generally, a Form 5500 for a defined contribution plan must contain an opinion from an independent qualified public accountant as to whether the plan's financial statements and schedules are presented fairly. However, no such opinion is required with respect to a plan covering fewer than 100 participants. The SECURE Act provided for an arrangement for a group of plans with common features to file a single Form 5500. Proposed regulations would require both a plan-level and a trust-level audit for plans participating in such a group.	Clarifies that with respect to a group of plans, a trust-level audit is not required and that only plans with 100 or more participants are required to undergo an audit.	Effective upon enactment.

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Bill Section	**Current Law**	**New Law**	**Effective Date**
Sec. 346 Worker Ownership, Readiness, and Knowledge	N/A	Creates an Employee Ownership and Participation Initiative at the DOL to provide technical assistance to those seeking to start new employee-owned businesses and encourage employee participation. Appropriates funds for a grant program related to employee ownership.	Effective upon enactment.
Sec. 347. Report by the Secretary of Labor on the impact of inflation on retirement savings	N/A	Directs the DOL to study the impact of inflation on retirement savings and submit a report to Congress not later than 90 days after the date of enactment.	Effective upon enactment.
Sec. 348. Cash balance	Cash balance and other "hybrid" plans are subject to numerous technical rules that make it difficult to offer market-based designs.	Permits a cash balance plan with variable interest crediting rates to use a projected interested crediting rate that is "reasonable" but not in excess of 6%. The practical consequence of this change is that plans will be permitted to provide larger pay credits for older, longer service workers without the risk of failing the anti-backloading rules.	Effective for plan years beginning after the date of enactment.

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Sec. 349. Termination of variable rate premium indexing	Defined benefit plans subject to Title IV of ERISA are required to pay a variable rate premium to PBGC. In 2023, the variable rate premium is $52 per each $1000 of unfunded vested benefits, but it is indexed for inflation.	Ends the indexing of the variable rate premium and sets the premium permanently at $52 per each $1000 of unfunded vested benefits.	Effective upon enactment.
Sec. 350. Safe harbor for correction of employee elective deferral failures	The IRS' Employee Plans Compliance Resolution System (EPCRS) contains rules allowing plans to correct errors, including with respect to missed deferrals under automatic enrollment or automatic escalation features. EPCRS currently contains a safe harbor for correcting automatic enrollment failures, which is set to expire on December 31, 2023.	Creates a safe harbor that a plan will not fail to be a qualified plan merely because of a corrected error. A "corrected error" is a reasonable administrative error made in implementing automatic enrollment, automatic escalation features, or by failing to offer an affirmative election due to the employee's improper exclusion from the plan, so long as that error is corrected within 9 ½ months of the end of the plan year in which the error occurred (or date on which employee notifies the plan sponsor of the error, if earlier), is resolved favorably toward the participant and without discrimination toward similarly situated participants, and notice is provided within 45 days of the date on which correct deferrals begin. This new safe harbor does not require a corrective contribution for missed deferrals, but the plan sponsor must contribute any missed matching contributions, plus earnings. The safe harbor is available for 401(a), 403(b) and 457(b) plans and IRAs.	Effective for any errors with respect to which the date that is 9½ months after the end of the plan year during which the error occurred is after December 31, 2023.

TITLE IV—TECHNICAL AMENDMENTS			
Bill Section	**Current Law**	**New Law**	**Effective Date**
Sec. 401. Amendments relating to Setting Every Community Up for Retirement Enhancement Act of 2019	Relevant portions of current law are as follows: 1) There is no explicit acknowledgement within Section 401(m)(12) that an automatic enrollment 401(m) safe harbor plan must meet the notice requirements of Code Section 401(k)(13)(E). 2) Regarding long-term, part-time workers: • Section 401(k)(15)(B)(i)(II) states that an employer may exclude such an employee from safe harbor non-discrimination rules under 401(m) • Section 401(k)(15)(B)(iii) applies vesting rules to "the arrangement", which may include a cash or deferred arrangement in addition to an employee benefits plan under ERISA. • Section 401(k)(15)(B)(iv) states that an employee ceases to be a long-term, part-time workers when they meet the age and service requirements of a full-time employee under Section 410(a)(1)(a)(ii). 3) There is no explicit statement within Section 4973(b) that the excise tax on excess contributions to an IRA generally does not apply to difficulty of care payments contributed to an IRA.	Section 401 includes three technical and five clerical amendments to the SECURE Act. The three technical amendments are as follows: 1) SECURE 2.0 clarifies that an automatic enrollment 401(m) safe harbor plan must meet the notice requirements of Code Section 401(k)(13)(E). 2) Changes were made to the long-term, part-time worker rules to reflect that: • an employer may exclude an employee from safe harbor non-discrimination rules under 401(m) including alternative methods of satisfying the tests described in paragraphs (11), and (12); • that vesting rules apply to the plan and not only the cash or deferred arrangement; and • that an employee ceases to be a long-term, part-time worker when they meet the age and service requirements of a full-time employee under Section 401(k)(2)(D) rather than under Section 410(a)(1)(a)(ii). 3) The SECURE Act was also amended to reflect that the excise tax on excess contributions to an IRA generally does not apply to difficulty of care payments contributed to an IRA. Additionally, the clerical amendments fix a number of cross references that were affected by the enactment of SECURE 2.0.	Effective as if included in the section of the 2019 SECURE Act to which the amendment relates.

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TITLE V—ADMINISTRATIVE PROVISIONS			
Bill Section	**Current Law**	**New Law**	**Effective Date**
Sec. 501. Provisions relating to plan amendments	Current law generally requires plan amendments to reflect legal changes to be made by the tax filing deadline for the employer's taxable year in which the change in law occurs (including extensions). The Code and ERISA provide that, in general, accrued benefits cannot be reduced by a plan amendment (the "anti-cutback rule"). Individually designed plans have the Required Amendment List that provides some additional time for amendments.	Allows plan amendments made pursuant to this bill to be made by the end of the 2025 plan year (2027 plan year in the case of governmental plans and collectively bargained plans) as long as the plan operates in accordance with such amendments as of the effective date of a legislative or regulatory requirement or amendment. If a plan operates as such and meets the amendment timeline and requirements of this bill, then the plan will be treated as being operated in accordance with its terms, and the amendment will not violate the anti-cutback rule (unless so designated by the Secretary). Extends the plan amendment deadlines under the SECURE Act, CARES Act, and Taxpayer Certainty and Disaster Relief Act of 2020 to these new remedial amendment period dates, as previously reflected in IRS notices.	Effective upon enactment.

TITLE VI—REVENUE PROVISIONS			
Bill Section	**Current Law**	**New Law**	**Effective Date**
Sec. 601. SIMPLE and SEP Roth IRAs	Unlike 401(k), 403(b), and governmental 457(b) plans, SIMPLE IRAs and SEPs are not permitted to offer a Roth option. Instead, all contributions must be pre-tax.	A SEP and a SIMPLE IRA are permitted to be designated as Roth IRAs.	Effective for taxable years beginning after December 31, 2022.

TITLE VI—REVENUE PROVISIONS			
Bill Section	**Current Law**	**New Law**	**Effective Date**
Sec. 602. Hardship withdrawal rules for 403(b) plans	Prior to the Bipartisan Budget Act of 2018 ("BBA"), the hardship rules for 401(k) plans and 403(b) plans were generally the same. The BBA created some differences, primarily allowing 401(k) plans to make hardship distributions from more contribution sources, such as qualified nonelective contributions ("QNECs"), and earnings on elective deferrals.	Conforms the hardship distribution rules for Section 403(b) plans to those of Section 401(k) plans. Therefore, a 403(b) plan may distribute QNECs, qualified matching contributions, and earnings on any of these contributions (including elective deferrals). Also confirms that distributions from a 403(b) plan are not treated as failing to be made upon hardship solely because the employee does not take available loans.	Effective for plan years beginning after December 31, 2023.
Sec. 603. Elective deferrals generally limited to regular contribution limit	Catch-up contributions to Section 401(k), 403(b), and governmental 457(b) plans (if age 50 or older) may be made on either a pre-tax or Roth basis.	Catch up contributions to Section 401(a) qualified plans, Section 403(b) plans, and governmental Section 457(b) plans must be made to on a Roth basis, except for eligible participants whose prior year wages do not exceed $145,000 (indexed for inflation). This requirement does not apply to SIMPLE IRAs or SEP plans.	Effective for taxable years beginning after December 31, 2023.
Sec. 604. Optional treatment of employer matching or nonelective contributions as Roth contributions	Current law does not permit employer matching or nonelective contributions to be made on a Roth basis.	Allows a Section 401(a) qualified plan, a Section 403(b) plan, or a governmental 457(b) plan to permit employees to designate employer matching or nonelective contributions as Roth contributions. Student loan matching contributions may also be designated as Roth contributions. Matching and nonelective contributions designated as Roth contributions are not excludable from the employee's income, and must be 100% vested when made.	Effective for contributions made after enactment.

TITLE VI—REVENUE PROVISIONS			
Bill Section	**Current Law**	**New Law**	**Effective Date**
Sec. 606. Enhancing retiree health benefits in pension plans	Present law permits an employer to use assets from an overfunded pension plan to pay retiree health and life insurance benefits (Code sec. 420). These rules sunset at the end of 2025.	Extends the sunset date of existing 420 rules to the end of 2032 and generally permits annual transfers to pay retiree health and life insurance benefits provided the transfer is no more than 1.75% of plan assets and the plan is at least 110% funded.	Effective for transfers made after the enactment date.

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